

## **INTERVIEW SUMMARY**

This will confirm the telephone conference with the Examiner on October 5, 2005. The undersigned wishes to express thanks to the Examiner for the courtesy extended. Proposed claims were discussed. No agreement was reached. However, the Examiner did indicate that the rejection under 102(b) would likely be overcome.

## **REMARKS**

Applicant respectfully traverses the Examiner's rejection of claim 1 as anticipated by Hatch, U.S. Patent No. 1,559,695. Applicant further traverses the rejection of claim 1 as being obvious over Simon, U.S. Patent No. 5,531,410 in view of Hatch.

Claim 1 has been amended to recite a substantially U-Shaped section extending over a certain length parallel to the first direction between two open ends "and defining an open and unobstructed upper area."

Simon is an example of the prior art cable-laying conduit similar to Muhlethaler, U.S. Patent No. 5,062,605 which is identified in the opening pages of the instant application. Neither Muhlethaler nor Simon teach or suggest the present invention as recited by the amended claims.

The teachings of Hatch are directed to a bottle carrier. The bottle carrier is, of course, designed to carry bottles having flat rigid bottom surfaces. Without the offsets 7 in Hatch, the bottles would rest upon only two contact points, i.e., the transverse bottom member 6, and the longitudinal bottom member 5 on either one side or the other side of the transverse bottom member 6. The bottle would thus have a tendency to be inclined and rock between the two contact points provided by the longitudinal bottom member 5.

The Examiner also mentioned the Lin references, U.S. Patent 5,802,986 and 6,105,512, at page 7 of the outstanding office action. Applicant notes that these references are directed to a pallet device or cargo holding board. The apparatus of Lin is directed to supporting and transportation of heavy loads. As noted in column 1, lines 26 and 27, of the Lin '512 patent, regarding the prior art, it is disclosed that there is a concern to "allow uniform distribution the cargo's weight over the board." Further, it is suggested by the following sentence that the cargo can actually crush the underlying cargo, if any. It is appreciated that the apparatus are often stacked one on the other, thus further increasing the weight upon which the apparatus must support.

In contrast, in the present invention, the cable conduit is not concerned with supporting bottles having flat rigid bottom surfaces, wherein the bottle will span across only one transverse bottom member. Further, the present invention is not directed to supporting substantial cargo during shipping, and thus is not concerned with the need to allow uniform distribution of the cargoes weight over the board.

Rather, the present invention is concerned with the deformation of flexible or semi rigid pipes or lines spanning across multiple cross-wise wires. In particular, the flexible or semi rigid pipes or lines may deform under their own weight or by clamps. Such deformation is detrimental to the life and performance of the flexible or semi rigid pipes or lines. In addition, there is always a desire to minimize the space required for the cable conduit and the space savings provided by the claimed bends is significant, while such space savings would not be relevant in the bottle carrier or pallet device. In addition, the claimed bends readily accommodate clamps and support members which are not utilized in the bottle carrier and pallet device.

In view of these foregoing comments, it is submitted that neither of the Hatch nor Lin references disclose nor suggest (alone or in combination with another reference) the claimed present invention, which includes the "bends" and the substantially U-shaped section extending between the two open ends and defining an open and unobstructed upper area.

As noted during the telephone interview, the Hatch and Lin references are not directed to cable conduits. For this reason, in part, the Hatch and Lin references do not suggest the present invention. The motivation for providing the claimed structure is not present in the Hatch and Lin references. The features shown in Hatch and Lin upon which the Examiner relies to show the claimed invention, do not provide the benefit or advantage to which the present invention is directed. There is no motivation to pick and chose features from Hatch or Lin and combine with Simon or Muhlethaler to arrive at the claimed invention. It is only with the benefit of hindsight that these references arguably bring us to the claimed invention. There must be motivation for an obviousness argument and further the use of hindsight is inappropriate.

In view of the forgoing comments and amendment, Applicant respectfully requests the Examiner's reconsideration and to allow the amended claims over the prior art of record.

Respectfully submitted,



Michael L. Kenaga  
Reg. No. 34,639

**DLA PIPER RUDNICK GRAY CARY US LLP**  
P.O. Box 64807  
Chicago, Illinois 60664-0807  
Phone: 312/368-4000  
**Customer No.: 28465**